

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KAREN PETERSEN,

Plaintiff,

v.

WALMART INC.

Defendant.

NOTICE OF REMOVAL

Case №.

PLEASE TAKE NOTICE that defendant Walmart Inc. (hereinafter, “Removing Defendant”), by its attorneys, Bennett Schechter Arcuri & Will LLP, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal of the action styled *Karen Petersen, Plaintiff, versus Walmart Inc., Defendant*, Index №. 806771/2021 (the “Action”), from the Supreme Court of the State of New York, County of Erie, to the United States District Court for the Western District of New York.

In support thereof, Removing Defendant states:

1. On or about May 24, 2021, Plaintiff Karen Petersen (hereinafter, “Plaintiff”) commenced the Action by filing a Summons and Complaint in the Supreme Court of the State of New York, County of Erie, against the Removing Defendant. A copy of the Summons and Complaint is attached hereto and incorporated herein by reference as **Exhibit A**.
2. On July 1, 2021, the Removing Defendant appeared in the Action by serving its Answer, a copy of which is attached hereto and incorporated herein by reference as **Exhibit B**.
3. After the commencement of the action, and in accordance with N.Y. CPLR 3017(c), the Removing Defendant served a Request for Supplemental Demand for Relief on the

Plaintiff, a copy of which is attached and incorporated herein by reference as **Exhibit C**.

4. On July 26, 2021, the Removing Defendant received a response to Plaintiff's Supplemental Demand for Relief as part of Plaintiff's Combined Discovery Responses, dated July 22, 2021, seeking One Million Dollars (\$1,000,000.00) in damages in this action, a copy of which is attached herein by reference as **Exhibit D**.

5. According to Plaintiff's Complaint, Plaintiff Karen Petersen is an individual domiciled in the State of New York and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of New York. *See* Ex. A.

6. Removing Defendant Walmart Inc. is a corporation organized under the laws of the State of Delaware, with a principal place of business in the State of Arkansas and, therefore, for the purposes of this Notice of Removal, is a citizen of the States of Delaware and Arkansas.

7. This Court has original subject matter jurisdiction over the Action pursuant to 28 U.S.C. §§1332(a) and 1441(b), because (a) there is complete diversity of citizenship among the parties; (b) the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00) exclusive of interest and costs; and (c) none of the parties in interest who are properly joined and served as Defendants are citizens of New York State. The Action may, therefore, be removed pursuant to 28 U.S.C. § 1441(b).

8. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(3) and (c), because it is filed within thirty (30) days after receipt by the Removing Defendant of Plaintiff's Demand for Relief (the other paper from which it was first ascertainable that the case is removable), and within one (1) year of commencement of the Action.

9. Pursuant to 28 U.S.C. §1446(b)(2), all defendants who have been properly

joined and served join in and consent to the removal of the Action.

10. Pursuant to 28 U.S.C. §1441(a), removal venue exists in the United States District Court for the Western District of New York because the Supreme Court, Erie County (the Court in which the Action was originally filed) is within the jurisdiction of the Western District of New York.

11. Pursuant to 28 U.S.C. §1446(a), all process, pleadings, and orders served to date upon the Removing Defendant are appended hereto. Pursuant to Local Rule 81(a)(3), an index of all documents filed in the state court action is attached hereto as **Exhibit E**.

12. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal is being served upon the Plaintiff and is being filed with the Clerk of the Supreme Court, Erie County. *See* Notice of Filing of Notice of Removal, with Affidavit of Service, attached hereto as **Exhibit F**.

13. The Removing Defendant reserves the right to amend or supplement this Notice of Removal.

WHEREFORE, the Removing Defendant requests that the case styled *Karen Petersen, Plaintiff, versus Walmart Inc., Defendant*, Supreme Court of the State of New York, County of Erie, Index №. 806771/2021, be removed to this Court, and that this Court take subject matter jurisdiction over this Action.

Dated: Buffalo, New York
August 18, 2021

Yours, etc.,

/s/ *Pauline C. Will*

BENNETT SCHECHTER

ARCURI & WILL LLP

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